

1 proceeding, the court shall cause a copy of the report to be delivered to the sheriff or
2 jailer. The sheriff or jailer may provide a copy of the report to the person who is
3 responsible for maintaining medical records for inmates of the jail, or to a nurse
4 licensed under ch. 441, or to a physician or physician assistant licensed under subch.
5 II of ch. 448 who is a health care provider for the defendant or who is responsible for
6 providing health care services to inmates of the jail. The report shall not be otherwise
7 disclosed ~~prior to~~ before the hearing under this subsection s. 975.34.

****NOTE: I did not restore "forthwith" and delete "immediately." Our current style, per our Drafting Manual, is to use "immediately" in place of "forthwith." If it is not changed here, it will be changed, after the bill passes, under the revising authority under s. 13.92.

8 **SECTION 757.** 971.14 (4) (b) of the statutes is repealed.

9 **SECTION 758.** 971.14 (4) (c) of the statutes is repealed.

10 **SECTION 759.** 971.14 (4) (d) of the statutes is repealed.

11 **SECTION 760.** 971.14 (5) (title) of the statutes is repealed.

12 **SECTION 761.** 971.14 (5) (a) 1., 2. and 3. of the statutes are renumbered 975.34

13 (7) (a), (b) and (c) and amended to read:

14 975.34 (7) (a) ~~If the court determines that the defendant is not competent but~~
15 ~~is likely to become competent within the period specified in this paragraph if~~
16 ~~provided with appropriate treatment~~ sub. (6) (b) 3. applies, the court shall suspend
17 ~~the proceedings and commit the defendant to the custody of the department for~~
18 ~~treatment for a period not to exceed 12 months, or the maximum sentence specified~~
19 ~~for the most serious offense with which the defendant is charged, whichever is less~~
20 the maximum period of commitment, as defined in sub. (6) (a). The department shall
21 determine whether the defendant will receive treatment in an appropriate
22 institution designated by the department, while under the supervision of the
23 department in a community-based treatment program under contract with the

1 department, or in a jail or a locked unit of a facility that has entered into a voluntary
2 agreement with the state to serve as a location for treatment. The sheriff shall
3 transport the defendant to the institution, program, jail, or facility, as determined
4 by the department.

5 (b) If, under ~~subd. 1. par. (a)~~, the department commences ~~services~~ treatment
6 to a defendant in jail or in a locked unit, the department shall, as soon as possible,
7 transfer the defendant to an institution or provide ~~services~~ treatment to the
8 defendant in a community-based treatment program consistent with this
9 subsection. The court shall order a defendant who is committed under this
10 subsection to undergo periodic reexaminations as provided in s. 975.36.

11 (c) Days spent in commitment under this ~~paragraph~~ subsection are considered
12 days spent in custody under s. 973.155. The court shall make and enter a specific
13 finding of the number of days spent in custody and include that finding in the
14 commitment order.

15 **SECTION 762.** 971.14 (5) (a) 4. of the statutes is renumbered 975.34 (7) (d) and
16 amended to read:

17 975.34 (7) (d) A defendant under the supervision of the department placed
18 under this ~~paragraph~~ subsection in a community-based treatment program is in the
19 custody and control of the department, subject to any conditions set by the
20 department. If the department believes that the defendant under supervision has
21 violated a condition, or that permitting the defendant to remain in the community
22 jeopardizes the safety of the defendant or another person, the department may
23 designate an institution at which the treatment shall occur and may request that the
24 court reinstate the proceedings, order the defendant transported by the sheriff to the

1 designated institution, and ~~suspend proceedings~~ commit the defendant to custody
2 consistent with subd. 1. par. (a).

3 **SECTION 763.** 971.14 (5) (am) of the statutes is renumbered 975.35 and
4 amended to read:

5 **975.35 Post-commitment motion on capacity to refuse medication or**
6 **treatment.** ~~If the a~~ defendant committed under s. 975.34 (7) is not subject to a court
7 order determining finding the defendant to be not competent to refuse medication or
8 treatment for the defendant's mental condition and if the department determines
9 that the defendant should be subject to such a court order, the department may file
10 a motion with the court, with notice to the counsel for the defendant, the defendant,
11 and the district attorney, a motion for a hearing, under the standard specified in sub.
12 (3) (dm), on to determine whether the defendant is not competent to refuse
13 medication or treatment. A report on which the motion is based shall accompany
14 the motion and notice of motion and shall include a statement The department shall
15 submit with the motion a report that is based on an examination of the defendant by
16 a licensed physician, that is signed by a licensed physician, and that asserts that the
17 defendant needs medication or treatment and that the defendant is not competent
18 to refuse medication or treatment, based on an examination of the defendant by a
19 licensed physician. The department shall provide notice of any motion filed under
20 this section, and a copy of the report submitted with the motion, to the defendant,
21 the defendant's attorney, and the district attorney. Within 10 days after the
22 department files a motion is filed under this paragraph section, the court shall, under
23 the procedures and standards specified in sub. (4) (b), hold a hearing without a jury
24 to determine whether the defendant's competency defendant is not competent to
25 refuse medication or treatment for the defendant's mental condition. At the hearing,

1 the department must prove by clear and convincing evidence that the defendant is
2 not competent to refuse medication or treatment. At the request of the defendant,
3 the defendant's ~~counsel~~ attorney, or the district attorney, the hearing may be
4 postponed, but in no case may the postponed hearing be held more than 20 days after
5 a motion is filed under this ~~paragraph~~ section.

6 **SECTION 764.** 971.14 (5) (b) of the statutes is renumbered 975.36 (1) and
7 amended to read:

8 975.36 (1) REEXAMINATION TIME LIMITS. The ~~defendant~~ department shall be
9 periodically ~~reexamined by the department examiners.~~ Written reports of
10 ~~examination shall be furnished to the court~~ reexamine a defendant who remains
11 committed under s. 975.34 (7), and at 3 months after commitment, 6 months after
12 commitment, and 9 months after commitment and within 30 days prior to before the
13 expiration of the commitment. ~~Each order shall submit a written report to the court~~
14 on the defendant's mental condition. In each report, the department shall indicate
15 either that whether the defendant has become competent, that the defendant
16 remains incompetent but that attainment of competency to proceed and, if the
17 defendant has not become competent, whether the defendant is likely to become
18 competent within the remaining commitment period, or that the defendant has not
19 made such progress that attainment of competency is likely within the remaining
20 commitment period. Any report indicating such a lack of sufficient progress shall
21 include the examiner's opinion regarding whether the defendant is mentally ill,
22 alcoholic, drug dependent, developmentally disabled or infirm because of aging or
23 other like incapacities. If the defendant is not likely to become competent within the
24 remaining commitment period, the department shall also report whether the
25 defendant meets the criteria for commitment under ch. 51 or 55. The court shall

1 schedule a date certain for the review of the reports. If the department indicates in
2 the report that the defendant has become competent or that the defendant is not
3 competent and is unlikely to become competent within the remaining commitment
4 period, the court shall hold the review within 14 days after the court receives the
5 report.

6 **SECTION 765.** 971.14 (5) (c) of the statutes is renumbered 975.36 (3) and
7 amended to read:

8 975.36 (3) DETERMINING COMPETENCY. Upon receiving a report under ~~par. (b)~~
9 ~~indicating the defendant has regained competency or is not competent and unlikely~~
10 ~~to become competent in the remaining commitment period, the court shall hold a~~
11 ~~hearing within 14 days of receipt of the report and sub. (1) or (2), the court shall~~
12 ~~proceed under sub. (4) s. 975.34.~~ If the court determines that the defendant has
13 become competent, the defendant shall be discharged from commitment and the
14 criminal proceeding shall be resumed. If the court determines that the defendant is
15 making sufficient progress toward becoming competent, the commitment shall
16 continue.

17 **SECTION 766.** 971.14 (5) (d) of the statutes is renumbered 975.36 (5) and
18 amended to read:

19 975.36 (5) MEDICATION TO MAINTAIN COMPETENCY. If the defendant is receiving
20 medication, the court may make appropriate orders for the continued administration
21 of the medication in order to maintain the competence of the defendant for the
22 duration of the proceedings.

23 (6) SUBSEQUENT INCOMPETENCY. If a defendant who has been restored to
24 competency thereafter again becomes incompetent, the maximum commitment

1 period under ~~par. (a)~~ s. 975.34 (6) shall be 18 months minus the days spent in previous
2 commitments under ~~this subsection~~ s. 975.34, or 12 months, whichever is less.

3 **SECTION 767.** 971.14 (6) (title) of the statutes is repealed.

4 **SECTION 768.** 971.14 (6) (a) of the statutes is repealed.

5 **SECTION 769.** 971.14 (6) (b) of the statutes is renumbered 975.38 (1) and
6 amended to read:

7 975.38 (1) When the court finds under s. 975.34 (6) (b) 1. that a defendant is
8 not likely to become competent, or discharges a defendant from commitment under
9 ~~par. (a)~~ s. 975.36 (4), it may order that the defendant be taken immediately into
10 custody by a law enforcement official and promptly delivered to a facility specified
11 in s. 51.15 (2), an approved public treatment facility under s. 51.45 (2) (c), or an
12 appropriate medical or protective placement facility. Thereafter, detention of the
13 defendant shall be governed by s. 51.15, 51.45 (11), or 55.135, as appropriate. The
14 district attorney or corporation counsel may prepare a statement ~~meeting that~~
15 satisfies the requirements of s. 51.15 (4) or (5), 51.45 (13) (a), or 55.135 based on the
16 allegations of the criminal complaint and the evidence in the case. ~~This statement~~
17 ~~shall be given~~ If an attorney prepares such a statement, he or she shall provide a copy
18 of the statement to the director of the facility to which the defendant is delivered and
19 ~~filed~~ file the statement with the branch of ~~circuit~~ court assigned to exercise criminal
20 jurisdiction in the county in which the criminal charges are pending, ~~where it shall.~~
21 The filed statement shall suffice, without corroboration by other petitioners, as a
22 petition for commitment under s. 51.20 or 51.45 (13) or a petition for protective
23 placement under s. 55.075. ~~This section~~ subsection does not restrict the power of the
24 branch of ~~circuit~~ court in which the petition statement is filed to transfer the matter
25 to the branch of ~~circuit~~ court assigned to exercise jurisdiction under ch. 51 in the

1 county. Days spent in commitment or protective placement pursuant to a petition
2 under this ~~paragraph shall not be deemed subsection~~ do not count as days spent in
3 custody under s. 973.155.

4 **SECTION 770.** 971.14 (6) (c) of the statutes is renumbered 975.38 (2) and
5 amended to read:

6 975.38 (2) If a ~~person~~ defendant is committed under s. 51.20 pursuant to a
7 petition under ~~par. (b) sub. (1)~~, the county department under s. 51.42 or 51.437 to
8 whose care and custody the ~~person~~ defendant is committed shall notify the court
9 ~~which that released the defendant under s. 975.34 (6) (b) 1. or discharged the person~~
10 defendant under ~~par. (a) s. 975.36 (4)~~, the district attorney for the county in which
11 that court is located, and the ~~person's~~ defendant's attorney of record in the ~~prior~~
12 suspended criminal proceeding at least 14 days ~~prior to~~ before transferring or
13 discharging the defendant from an inpatient treatment facility and at least 14 days
14 ~~prior to~~ before the expiration of the order of commitment or any subsequent
15 consecutive order, unless the ~~department or~~ county department ~~or the department~~
16 ~~of health services~~ has applied for an extension of the order.

17 **SECTION 771.** 971.14 (6) (d) of the statutes is renumbered 975.38 (3) and
18 amended to read:

19 975.38 (3) Counsel who ~~have received~~ receive notice under ~~par. (e) sub. (2)~~ or
20 who otherwise obtain information that a defendant released under s. 975.34 (6) (b)
21 1. or discharged under par. (a) s. 975.36 (4) may have become competent to proceed
22 in a criminal case may move the court to order that the defendant undergo a
23 competency examination under sub. (2) s. 975.32. If the court ~~so orders~~, a report shall
24 ~~be filed under sub. (3) and a hearing held under sub. (4)~~ orders an examination under
25 s. 975.32, the examiner shall file a report under s. 975.33 and the court shall proceed

1 under s. 975.34. If the court determines that the defendant is competent to proceed,
2 the court shall resume the criminal proceeding ~~shall be resumed~~. If the court
3 determines that the defendant is not competent to proceed, it shall release ~~him or her~~
4 the defendant but may impose ~~such~~ reasonable nonmonetary conditions ~~as will~~ on
5 the defendant to protect the public and enable the court and district attorney to
6 discover whether the ~~person~~ defendant subsequently becomes competent.

7 **SECTION 772.** 971.15 of the statutes is renumbered 975.50, and 975.50 (2), as
8 renumbered, is amended to read:

9 975.50 (2) As used in this chapter, the ~~terms~~ term "mental disease or defect"
10 ~~do~~ does not include an abnormality manifested only by repeated criminal or
11 otherwise antisocial conduct.

12 **SECTION 773.** 971.16 (title) of the statutes is renumbered 975.51 (title).

13 **SECTION 774.** 971.16 (1) of the statutes is repealed.

14 **SECTION 775.** 971.16 (2) of the statutes is renumbered 975.51 (1) and amended
15 to read:

16 975.51 (1) If ~~the a~~ defendant ~~has entered~~ enters a plea of not guilty by reason
17 of mental disease or defect or there is other reason to believe that the defendant has
18 a mental disease or defect of the defendant will otherwise that will become an issue
19 in the case, the court may appoint at least one ~~physician or at least one psychologist,~~
20 but and not more than 3 physicians or psychologists or a combination thereof, to
21 examine the defendant and to testify at the trial. If the court appoints a physician
22 or psychologist under this section, the court shall inform the jury, if there is one, that
23 the court appointed the physician or psychologist and shall permit both parties to
24 cross-examine the physician or psychologist.

1 ~~(2) (a) The compensation of the physicians or psychologists shall be fixed by the~~
2 ~~court and paid by court shall set the fee for an examination conducted by a physician~~
3 ~~or psychologist appointed under sub. (1) and the county, upon the order of the court,~~
4 ~~shall pay the fee as part of the costs of the action. The receipt by any~~

5 ~~(b) A physician or psychologist summoned under this section of any other~~
6 ~~compensation than that so fixed by the court and paid by the county, or the offer or~~
7 ~~promise by any person to pay such other compensation, is unlawful and may not~~
8 ~~accept compensation other than the fee under par. (a), for conducting an examination~~
9 ~~under sub. (1) and no person may offer or promise to pay the physician or psychologist~~
10 ~~other compensation for the examination. Violation of this paragraph is punishable~~
11 ~~as contempt of court. The fact that the physician or psychologist has been appointed~~
12 ~~by the court shall be made known to the jury and the physician or psychologist shall~~
13 ~~be subject to cross-examination by both parties.~~

14 **SECTION 776.** 971.16 (3) (intro.) of the statutes is renumbered 975.51 (3) and
15 amended to read:

16 975.51 (3) Not less than 10 days before trial, or at ~~any other time that the court~~
17 ~~directs~~ a different time if directed by the court, any physician or psychologist
18 appointed under sub. ~~(2)~~ (1) shall file a written report of his or her examination of
19 the defendant with the ~~judge, who~~ court, and the court shall cause copies of the report
20 to be transmitted to the district attorney and to ~~counsel for the defendant. The~~
21 ~~contents of the report shall be confidential until the physician or psychologist has~~
22 ~~testified or at the completion of the trial~~ the defendant's attorney. The report shall
23 contain ~~an~~ the physician's or psychologist's opinion regarding the ability of the
24 defendant to appreciate the wrongfulness of the defendant's conduct or to conform
25 the defendant's conduct with the requirements of law at the time of the commission

1 of the criminal offense charged and, if sufficient information is available to the
2 physician or psychologist to reach an opinion, his or her opinion on whether the
3 defendant needs medication or treatment and whether the defendant is not
4 competent to refuse medication or treatment. ~~The defendant is not competent to~~
5 ~~refuse medication or treatment if, because of mental illness, developmental~~
6 ~~disability, alcoholism or drug dependence, and after the advantages and~~
7 ~~disadvantages of and alternatives to accepting the particular medication or~~
8 ~~treatment have been explained to the defendant, one of the following is true: contents~~
9 ~~of the report shall be confidential until the physician or psychologist has testified or~~
10 until the completion of the trial.

11 SECTION 777. 971.16 (3) (a) of the statutes is repealed.

12 SECTION 778. 971.16 (3) (b) of the statutes is repealed.

13 SECTION 779. 971.16 (4) of the statutes is renumbered 975.51 (4) (a) and
14 amended to read:

15 975.51 (4) (a) If the defendant wishes to be examined by a physician,
16 psychologist, or other expert of his or her own choice, the examiner shall be permitted
17 to have reasonable access to the defendant for the purposes of examination. No
18 testimony An examiner selected by the defendant may not testify at trial regarding
19 the mental condition of the defendant ~~shall be received from a physician,~~
20 ~~psychologist or expert witness summoned by the defendant unless not less than the~~
21 examiner provides a report of his or her examination of the defendant to the district
22 attorney at least 15 days before trial ~~a report of the examination has been~~
23 ~~transmitted to the district attorney and unless the prosecution state has been~~
24 afforded an opportunity, if it requests one within a reasonable time before trial, to
25 examine and observe the defendant ~~if the opportunity has been seasonably~~

1 ~~demanded. The state may summon a physician, psychologist or other expert to~~
2 ~~testify, but that witness shall not give testimony unless not less than 15 days before~~
3 ~~trial a written report of his or her examination of the defendant has been transmitted~~
4 ~~to counsel for the defendant.~~

5 **SECTION 780.** 971.16 (5) of the statutes is renumbered 975.51 (5) (a) and
6 amended to read:

7 975.51 (5) (a) If Except as provided in par. (b), if a physician, psychologist, or
8 other expert who has examined the defendant testifies ~~concerning~~ regarding the
9 defendant's mental condition, he or she shall be permitted to make a statement as
10 to the nature of his or her examination, his or her diagnosis of the mental condition
11 of the defendant at the time of the commission of the offense charged, his or her
12 opinion as to the ability of the defendant to appreciate the wrongfulness of the
13 defendant's conduct or to conform to the requirements of law and, if sufficient
14 information is available to the physician, psychologist, or expert to reach an opinion,
15 his or her opinion on whether the defendant needs medication or treatment and
16 whether the defendant is not competent to refuse medication or treatment ~~for the~~
17 ~~defendant's mental condition. Testimony concerning the defendant's need for~~
18 ~~medication or treatment and competence to refuse medication or treatment may not~~
19 ~~be presented before the jury that is determining the ability of the defendant to~~
20 ~~appreciate the wrongfulness of his or her conduct or to conform his or her conduct~~
21 ~~with the requirements of law at the time of the commission of the criminal offense~~
22 ~~charged.~~ The physician, psychologist, or other expert shall be permitted to make an
23 explanation ~~reasonably serving~~ that reasonably serves to clarify his or her diagnosis
24 and opinion and may be cross-examined as to any matter bearing on his or her
25 competency or credibility or the validity of his or her diagnosis or opinion.

1 **SECTION 781.** 971.16 (6) of the statutes is renumbered 975.51 (6) and amended
2 to read:

3 975.51 (6) Nothing in this section ~~shall require the attendance at the trial of~~
4 ~~any~~ requires a physician, psychologist, or other expert witness to attend the trial for
5 any purpose other than ~~the giving of~~ to give his or her testimony.

6 **SECTION 782.** 971.165 (title) of the statutes is renumbered 975.52 (title).

7 **SECTION 783.** 971.165 (1) of the statutes is renumbered 975.52 (2), and 975.52
8 (2) (intro.) and (c) (intro.), 2. and 3., as renumbered, are amended to read:

9 975.52 (2) JOINED WITH A PLEA OF NOT GUILTY. (intro.) If a defendant ~~couples joins~~
10 a plea of not guilty with a plea of not guilty by reason of mental disease or defect, all
11 of the following apply:

12 (c) (intro.) If both pleas are tried to a jury, that jury shall be the same, except
13 that all of the following apply:

14 2. If the jury is discharged prior to reaching a verdict on the 2nd plea, the
15 defendant shall not ~~solely~~ on that account be entitled to a redetermination of the first
16 plea and a different jury of 12 may be selected to determine the 2nd plea only.

17 3. If an appellate court reverses a judgment as to the 2nd plea but not as to the
18 first plea and remands for further proceedings, or if the ~~trial~~ circuit court vacates the
19 judgment as to the 2nd plea but not as to the first plea, the 2nd plea may be
20 determined by a different jury selected for this purpose.

21 **SECTION 784.** 971.165 (2) of the statutes is renumbered 975.52 (3) and amended
22 to read:

23 975.52 (3) INFORMING JURY OF EFFECT OF VERDICT. If the plea of not guilty by
24 reason of mental disease or defect is tried to a jury, the court shall inform the jury
25 that the effect of a verdict of not guilty by reason of mental disease or defect is that,

1 in lieu of criminal sentence or probation, the defendant will be committed to the
2 custody of the department of health services and will be placed in an appropriate
3 institution unless the court determines that the defendant would not pose a danger
4 to himself or herself or to others if released under conditions ordered by the court.
5 No A verdict on the a plea of not guilty by reason of mental disease or defect may be
6 that is tried by a jury is not valid or and may not be received unless agreed to by at
7 least five-sixths of the jurors.

8 **SECTION 785.** 971.165 (3) (a) of the statutes is renumbered 975.52 (4) (a) and
9 amended to read:

10 975.52 (4) (a) If a defendant is not found not guilty by reason of mental disease
11 or defect, the court shall enter grant a judgment of conviction and shall either impose
12 or withhold sentence under s. ~~972.13 (2)~~ 972.28 (1).

13 **SECTION 786.** 971.165 (3) (b) of the statutes is renumbered 975.52 (4) (b) and
14 amended to read:

15 975.52 (4) (b) If a defendant is found not guilty by reason of mental disease or
16 defect, the court shall enter a judgment of not guilty by reason of mental disease or
17 defect. ~~The court shall thereupon and~~ proceed under s. ~~971.17~~ 975.55. A judgment
18 ~~entered under this paragraph is interlocutory to the commitment order entered~~
19 ~~under s. 971.17 and reviewable upon appeal therefrom~~ 975.57 is the final order in
20 the case and is appealable as a matter of right under s. 808.03 (1). Upon appeal of
21 the commitment order, all properly preserved issues may be raised, including those
22 relating to the guilt phase of the trial.

23 **SECTION 787.** 971.17 (title) of the statutes is renumbered 975.57 (title).

24 **SECTION 788.** 971.17 (1) of the statutes is renumbered 975.57 (2), and 975.57
25 (2) (a) to (d), as renumbered, are amended to read:

1 975.57 (2) (a) *Felonies committed before July 30, 2002.* Except as provided in
2 par. (c), when a ~~defendant~~ person is found not guilty by reason of mental disease or
3 ~~mental~~ defect of a felony committed before July 30, 2002, the court shall commit the
4 person to the department of ~~health services~~ for a specified period not exceeding
5 two-thirds of the maximum term of imprisonment that could be imposed under s.
6 973.15 (2) against an offender convicted of the same felony or felonies, including
7 imprisonment authorized by any applicable penalty enhancement statutes, ~~subject~~
8 ~~to the credit provisions of s. 973.155.~~

9 (b) *Felonies committed on or after July 30, 2002.* Except as provided in par. (c),
10 when a ~~defendant~~ person is found not guilty by reason of mental disease or ~~mental~~
11 defect of a felony committed on or after July 30, 2002, the court shall commit the
12 person to the department of ~~health services~~ for a specified period not exceeding the
13 maximum term of confinement in prison, plus imprisonment authorized by any
14 applicable penalty enhancement statutes, that could be imposed under ss. 973.01 (2)
15 and 973.15 (2) (a) on an offender convicted of the same felony, ~~plus imprisonment~~
16 ~~authorized by any applicable penalty enhancement statutes, subject to the credit~~
17 ~~provisions of s. 973.155~~ or felonies.

18 (c) *Felonies punishable by life imprisonment.* If a ~~defendant~~ person is found not
19 guilty by reason of mental disease or ~~mental~~ defect of a felony that is punishable by
20 life imprisonment, the commitment period specified by the court may be life, subject
21 to termination under ~~sub. (5)~~ s. 975.60.

22 (d) *Misdemeanors.* When a ~~defendant~~ person is found not guilty by reason of
23 mental disease or ~~mental~~ defect of a misdemeanor, the court shall commit the person
24 to the department of ~~health services~~ for a specified period not exceeding two-thirds
25 of the maximum term of imprisonment that could be imposed under s. 973.15 (2)

1 against an offender convicted of the same misdemeanor or misdemeanors, including
2 imprisonment authorized by any applicable penalty enhancement statutes, ~~subject~~
3 ~~to the credit provisions of s. 973.155.~~

4 **SECTION 789.** 971.17 (1g) of the statutes is renumbered 975.53 (1) and amended
5 to read:

6 975.53 (1) NOTICE OF RESTRICTION ON FIREARM POSSESSION. If ~~the defendant~~
7 ~~under sub. (1)~~ a person is found not guilty of a felony by reason of mental disease or
8 defect, the court shall inform the ~~defendant~~ person of the requirements and penalties
9 under s. 941.29.

10 **SECTION 790.** 971.17 (1h) of the statutes is renumbered 975.53 (2) and amended
11 to read:

12 975.53 (2) ~~NOTICE OF RESTRICTIONS ON POSSESSION~~ POSSESSION OF BODY ARMOR.
13 If ~~the defendant under sub. (1)~~ a person is found not guilty of a violent felony, as
14 defined in s. 941.291 (1) (b), by reason of mental disease or defect, the court shall
15 inform the ~~defendant~~ person of the requirements and penalties under s. 941.291.

16 **SECTION 791.** 971.17 (1j) (title) of the statutes is repealed.

17 **SECTION 792.** 971.17 (1j) (a) of the statutes is renumbered 975.54 (1) (a).

18 **SECTION 793.** 971.17 (1j) (b) of the statutes is renumbered 975.54 (1) (b) and
19 amended to read:

20 975.54 (1) (b) If a person is found not guilty by reason of mental disease or defect
21 of a serious sex offense, the court may, in addition to committing the person to the
22 department of ~~health services~~ under ~~sub. (1)~~ s. 975.57, place the person on lifetime
23 supervision under s. 939.615 if notice concerning lifetime supervision was given to
24 the person under s. 973.125 and if the court determines that lifetime supervision of
25 the person is necessary to protect the public.

1 **SECTION 794.** 971.17 (1m) (title) of the statutes is repealed.

2 **SECTION 795.** 971.17 (1m) (a) of the statutes is renumbered 975.54 (2) and
3 amended to read:

4 975.54 (2) ~~If the defendant under sub. (1)~~ a person is found not guilty by reason
5 of mental disease or defect for a felony or a violation of s. 165.765 (1), 940.225 (3m),
6 944.20, or 948.10, the court shall require the person to provide a biological specimen
7 to the state crime laboratories for deoxyribonucleic acid analysis.

8 ~~Insert 246-7~~ **SECTION 796.** 971.17 (1m) (b) 1m. a. of the statutes is renumbered 975.54 (3)

9 (a) 1. and amended to read:

10 975.54 (3) (a) 1. Except as provided in ~~subd. 2m. par. (b)~~, if ~~the defendant under~~
11 ~~sub. (1)~~ a person is found not guilty by reason of mental disease or defect for any
12 violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch.
13 940, 944, or 948 or s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require
14 the ~~defendant~~ person to comply with the reporting requirements under s. 301.45 if
15 the court determines that the underlying conduct was sexually motivated, as defined
16 in s. 980.01 (5), and that it would be in the interest of public protection to have the
17 ~~defendant~~ person report under s. 301.45.

18 **SECTION 797.** 971.17 (1m) (b) 1m. b. of the statutes is renumbered 975.54 (3)

19 (a) 2. and amended to read:

20 975.54 (3) (a) 2. If a court under subd. ~~1m. a. 1.~~ orders a person to comply with
21 the reporting requirements under s. 301.45 in connection with a finding of not guilty
22 by reason of mental disease or defect for a violation, or the solicitation, conspiracy,
23 or attempt to commit a violation, of s. 942.09 and the person was under the age of 21
24 when he or she committed the offense, the court may provide that upon termination
25 of the commitment order under ~~sub. (5)~~ s. 975.60 or expiration of the order under ~~sub.~~

1 ~~(6)~~ s. 975.61 the person be released from the requirement to comply with the
2 reporting requirements under s. 301.45.

3 **SECTION 798.** 971.17 (1m) (b) 2m. of the statutes is renumbered 975.54 (3) (b)
4 and amended to read:

5 975.54 (3) (b) If ~~the defendant under sub. (1)~~ a person is found not guilty by
6 reason of mental disease or defect for a violation, or for the solicitation, conspiracy,
7 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02
8 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,
9 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2)
10 if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was a minor and
11 the ~~defendant~~ person was not the victim's parent, the court shall require the
12 ~~defendant~~ person to comply with the reporting requirements under s. 301.45 unless
13 the court determines, after a hearing on a motion made by the ~~defendant~~ person, that
14 the ~~defendant~~ person is not required to comply under s. 301.45 (1m).

15 **SECTION 799.** 971.17 (1m) (b) 3. of the statutes is renumbered 975.54 (3) (c), and
16 975.54 (3) (c) (intro.), 1., 2. and 5., as renumbered, are amended to read:

17 975.54 (3) (c) (intro.) In determining under ~~subd. 1m. a. par. (a) 1.~~ whether it
18 would be in the interest of public protection to have the ~~defendant~~ person report
19 under s. 301.45, the court may consider any of the following:

20 1. The ages, at the time of the violation, of the ~~defendant~~ person and the victim
21 of the violation.

22 2. The relationship between the ~~defendant~~ person and the victim of the
23 violation.

24 5. The probability that the ~~defendant~~ person will commit other violations in the
25 future.

1 **SECTION 800.** 971.17 (1m) (b) 4. of the statutes is renumbered 975.54 (3) (d) and
2 amended to read:

3 975.54 (3) (d) If the court orders a ~~defendant~~ person to comply with the
4 reporting requirements under s. 301.45, the court may order the ~~defendant~~ person
5 to continue to comply with the reporting requirements until his or her death.

6 **SECTION 801.** 971.17 (1m) (b) 5. of the statutes is renumbered 975.54 (3) (e) and
7 amended to read:

8 975.54 (3) (e) If the court orders a ~~defendant~~ person to comply with the
9 reporting requirements under s. 301.45, the clerk ~~of the court in which the order is~~
10 ~~entered~~ shall promptly forward a copy of the order to the department of corrections.
11 If the finding of not guilty by reason of mental disease or defect on which the order
12 is based is reversed, set aside, or vacated, the clerk ~~of the court~~ shall promptly
13 forward to the department of corrections a certificate stating that the finding has
14 been reversed, set aside, or vacated.

15 **SECTION 802.** 971.17 (2) (title) of the statutes is repealed.

16 **SECTION 803.** 971.17 (2) (a) of the statutes is renumbered 975.55 and amended
17 to read:

18 **975.55 Disposition of person found not guilty by reason of mental**
19 **disease or defect.** ~~The court shall enter an initial commitment order under this~~
20 ~~section pursuant to a hearing held as~~ As soon as practicable after the entering a
21 judgment of finding a person not guilty by reason of mental disease or mental defect
22 is entered, the court shall hold a dispositional hearing and commit the person to the
23 department as provided in s. 975.57. If the court lacks sufficient information to ~~make~~
24 ~~the determination required by sub. (3)~~ enter a commitment order under s. 975.57
25 immediately after trial, it may adjourn the dispositional hearing, enter an interim

1 order committing the person to the department, and order the department of health
2 services to conduct a predisposition investigation using the procedure in ~~under~~ s.
3 972.15 973.004, or order a supplementary mental examination ~~or both~~, to assist the
4 court in framing the commitment order of the person. If the court enters an interim
5 commitment order, the person is subject to any conditions set by the court and to the
6 rules of the department.

7 **SECTION 804.** 971.17 (2) (b) of the statutes is renumbered 975.56 (1) and
8 amended to read:

9 975.56 (1) If ~~a~~ the court orders a supplementary mental examination is
10 ordered under par. (a) s. 975.55, the court may appoint one or more examiners having
11 the specialized knowledge determined by the court to be appropriate to ~~examine and~~
12 ~~report upon the condition of the person.~~ In lieu thereof, conduct an outpatient
13 examination of the person or the court may commit the person to an appropriate
14 mental health facility for the ~~period specified in par. (c), which shall~~ an inpatient
15 examination. Days spent in a mental health facility for an inpatient examination
16 under this subsection count as days spent in custody under s. 973.155.

17 **SECTION 805.** 971.17 (2) (c) of the statutes is renumbered 975.56 (3) (a) and
18 amended to read:

19 975.56 (3) (a) An examiner ordered to conduct an inpatient examination under
20 this section shall complete ~~an inpatient~~ the examination under par. (b) and file the
21 a report of the examination within 15 days after the examination is ordered ~~unless,~~
22 ~~for good cause,~~ If the examiner cannot complete the examination within 15 days and
23 requests an extension. ~~In that case,~~ the court may for good cause allow one 15-day
24 extension of the examination period.

1 (b) An examiner ordered to conduct an outpatient examination under this
2 section shall complete ~~an outpatient~~ the examination and file ~~the~~ a report of the
3 examination within ~~15~~ 30 days after the examination is ordered.

4 **SECTION 806.** 971.17 (2) (d) of the statutes is renumbered 975.56 (4) and
5 amended to read:

6 975.56 (4) If the court orders an inpatient examination under ~~par. (b)~~ sub. (1),
7 it shall arrange for the transportation of the person to the examining facility within
8 a reasonable time after the examination is ordered and for the person to be returned
9 to the jail or court within a reasonable time after the examination has been
10 completed.

11 **SECTION 807.** 971.17 (2) (e) of the statutes is renumbered 975.56 (2) and
12 amended to read:

13 975.56 (2) The examiner ~~appointed under par. (b)~~ ordered to conduct an
14 examination under this section shall personally observe and examine the person.
15 The examiner ~~or facility~~ shall have access to the person's past or present treatment
16 records, as defined in s. 51.30 (1) (b), and patient health care records, as provided
17 under s. 146.82 (2) (c). If the examiner believes that the person is appropriate for
18 conditional release, the examiner shall report on the type of treatment and services
19 that the person may need while in the community on conditional release.

20 **SECTION 808.** 971.17 (2) (f) of the statutes is renumbered 975.56 (5) and
21 amended to read:

22 975.56 (5) ~~The costs of an examination ordered under par. (a) shall be paid by~~
23 ~~the county upon~~ Upon the order of the court ~~as part of the costs of the action, the~~
24 county shall pay the costs of an examination ordered under this section.

1 **SECTION 809.** 971.17 (2) (g) of the statutes is renumbered 975.56 (6) and
2 amended to read:

3 975.56 (6) Within 10 days after the examiner's report is filed under ~~par. (e) sub.~~
4 (3), the court shall hold a hearing to determine ~~whether the terms of the commitment~~
5 ~~shall take the form of institutional care or conditional release order under s. 975.57.~~

6 **SECTION 810.** 971.17 (3) (title) of the statutes is repealed.

7 **SECTION 811.** 971.17 (3) (a) of the statutes is renumbered 975.57 (1) and
8 amended to read:

9 975.57 (1) COMMITMENT ORDER. An order for commitment under this section
10 shall specify either institutional care or conditional release. The court shall order
11 institutional care if it finds by clear and convincing evidence that ~~conditional release~~
12 ~~of the person, if conditionally released,~~ would pose a significant risk of causing bodily
13 harm to himself or herself or to others or of causing serious property damage. If the
14 court does not make this finding, it shall order conditional release. In determining
15 whether commitment shall be for institutional care or conditional release, the court
16 may consider, without limitation because of enumeration, the nature and
17 circumstances of the crime, the person's mental history and present mental
18 condition, where the person will live, how the person will support himself or herself,
19 what arrangements are available to ensure that the person has access to and will
20 take necessary medication, and what arrangements are possible for treatment
21 beyond medication.

22 **SECTION 812.** 971.17 (3) (b) of the statutes is renumbered 975.57 (5) (a) and
23 amended to read:

24 975.57 (5) (a) If the state proves by clear and convincing evidence that the
25 person is not competent to refuse medication or treatment ~~for the person's mental~~

1 ~~condition, under the standard specified in s. 971.16 (3), the court shall issue, as part~~
2 ~~of the commitment order, an order that the person is not competent to refuse~~
3 ~~medication or treatment for the person's mental condition and that whoever~~
4 ~~administers the medication or treatment to the person shall observe appropriate~~
5 ~~medical standards.~~

6 **SECTION 813.** 971.17 (3) (c) of the statutes is renumbered 975.57 (5) (b) and
7 amended to read:

8 975.57 (5) (b) ~~If the court order specifies institutional care, the department of~~
9 ~~health services shall place the person in an institution under s. 51.37 (3) that the~~
10 ~~department considers appropriate in light of the rehabilitative services required by~~
11 ~~the person and the protection of public safety. If the a person placed in an institution~~
12 ~~under this section is not subject to a court order determining finding the person to~~
13 ~~be not competent to refuse medication or treatment for the person's mental condition~~
14 ~~and if the institution in which the person is placed department determines that the~~
15 ~~person should be subject to such a court an order, the institution department may~~
16 ~~file a motion with the court, with notice to the person and his or her counsel and the~~
17 ~~district attorney, a motion as provided in s. 975.35 for a hearing, under the standard~~
18 ~~specified in s. 971.16 (3), on to determine whether the person is not competent to~~
19 ~~refuse medication or treatment. A report on which the motion is based shall~~
20 ~~accompany the motion and notice of motion and shall include a statement signed by~~
21 ~~a licensed physician that asserts that the person needs medication or treatment and~~
22 ~~that the person is not competent to refuse medication or treatment, based on an~~
23 ~~examination of the person by a licensed physician. Within 10 days after a motion is~~
24 ~~filed under this paragraph, the court shall determine the person's competency to~~
25 ~~refuse medication or treatment for the person's mental condition. At the request of~~

1 the person, his or her ~~counsel~~ attorney, or the district attorney, the hearing may be
2 postponed, but ~~in no case may~~ the postponed hearing shall be held ~~more than~~ within
3 20 days after a motion is filed under this paragraph. If the district attorney, the
4 person, and his or her ~~counsel~~ attorney waive their respective opportunities to
5 present other evidence on the issue, the court shall determine the person's
6 competency to refuse medication or treatment on the basis of the report
7 accompanying the motion. In the absence of these waivers, the court shall hold an
8 evidentiary hearing on the issue. If the state proves by ~~evidence that is~~ clear and
9 convincing evidence that the person is not competent to refuse medication or
10 treatment, ~~under the standard specified in s. 971.16 (3),~~ the court shall ~~order~~ find
11 that the person is not competent to refuse medication or treatment ~~for the person's~~
12 ~~mental condition~~ and order that whoever administers the medication or treatment
13 to the person shall observe appropriate medical standards.

14 **SECTION 814.** 971.17 (3) (d) of the statutes is renumbered 975.57 (4) (a) and
15 amended to read:

16 975.57 (4) (a) If the court finds that the person is appropriate for conditional
17 release, the court shall ~~notify the department of health services. The department of~~
18 ~~health services~~ and the county department under s. 51.42 in the county of residence
19 of the person shall prepare a plan that identifies the treatment and services, if any,
20 that the person will receive in the community. The plan shall address the person's
21 need, if any, for supervision, medication, community support services, residential
22 services, vocational services, and alcohol or other drug abuse treatment. ~~The~~
23 ~~department of health services may contract with a county department, under s. 51.42~~
24 ~~(3) (aw) 1. d., with another public agency or with a private agency to provide the~~
25 ~~treatment and services identified in the plan.~~ The plan shall specify who will be

1 responsible for providing the treatment and services identified in the plan. The ~~plan~~
2 ~~department and the county department~~ shall ~~be presented~~ present the plan to the
3 court for its approval within ~~21~~ 14 days after the court ~~finding~~ finds that the person
4 is appropriate for conditional release, unless the ~~department~~, county department,
5 ~~department of health services~~ and person to be released request additional time to
6 develop the plan. If the ~~The~~ county department of the ~~person's county of residence~~
7 ~~declines to prepare a plan~~, the ~~department of health services~~ may arrange for
8 another county to prepare the plan if that county agrees to prepare the plan and if
9 the individual will be living in that another county.

10 SECTION 815. 971.17 (3) (e) of the statutes is renumbered 975.58 and amended
11 to read:

12 **975.58 Petition for revocation of conditional release.** ~~An order for~~
13 ~~conditional release places the person in the custody and control of the department~~
14 ~~of health services. A conditionally released person is subject to the conditions set by~~
15 ~~the court and to the rules of the department of health services. Before a person is~~
16 ~~conditionally released by the court under this subsection, the court shall so notify the~~
17 ~~municipal police department and county sheriff for the area where the person will~~
18 ~~be residing. The notification requirement under this paragraph does not apply if a~~
19 ~~municipal department or county sheriff submits to the court a written statement~~
20 ~~waiving the right to be notified. If the department of health services alleges that a~~
21 ~~released person~~ conditionally released under s. 975.57 (4) or 975.59 has violated any
22 condition or rule of release, or that the safety of the person or others requires that
23 conditional release be revoked, he or she may be taken into custody under the rules
24 of revocation of release, the department may detain the person in a facility specified
25 in s. 51.15 (2) or in a jail. The department of health services shall submit a statement

1 showing probable cause ~~of~~ for the detention and a petition to revoke the order for
2 conditional release to the committing court and the regional office of the state public
3 defender responsible for handling cases in the county where the committing court is
4 located within 72 hours after the detention, excluding Saturdays, Sundays, and legal
5 holidays. The court shall hear the petition within 30 days, after detention unless the
6 hearing or time deadline is waived by the detained person. ~~Pending the revocation~~
7 ~~hearing, the department of health services may detain the person in a jail or in a~~
8 ~~hospital, center or facility specified by s. 51.15 (2). The~~ Before the hearing, the
9 department shall provide the detained person written notice of the claimed violation
10 and a summary of the evidence against the person. The department may withdraw
11 the petition without the consent of the court. If the department withdraws the
12 petition, the person shall be immediately released from detention. At a hearing
13 under this section, the state has the burden of proving by clear and convincing
14 evidence that ~~any~~ the person violated a rule or condition of release has been violated,
15 or that the safety of the person or others requires ~~that conditional release be revoked~~
16 revocation of release. If the court determines ~~after hearing that any~~ the person
17 violated a rule or condition of release has been violated, or that the safety of the
18 person or others requires ~~that conditional release be revoked~~ revocation of release,
19 it may revoke the order for conditional release and order ~~that the released person be~~
20 placed in an appropriate institution under s. 51.37 (3) until the expiration of the
21 commitment or until again conditionally released under ~~this section~~ s. 975.59. If the
22 court determines that the person violated a rule or condition of release, it may modify
23 the order for conditional release. The court shall set forth on the record the evidence
24 relied upon and reasons for the revocation or modification of conditional release.

25 **SECTION 816.** 971.17 (4) (title) of the statutes is renumbered 975.59 (title).

1 **SECTION 817.** 971.17 (4) (a) of the statutes is renumbered 975.59 (1) and
2 amended to read:

3 975.59 (1) PETITION. Any person who is committed ~~for institutional care to the~~
4 department and institutionalized under s. 975.57 or 975.58 may petition the
5 committing court to modify ~~its~~ the commitment order by authorizing conditional
6 release if at least 6 months have elapsed since the initial commitment order was
7 entered, the most recent ~~release petition for conditional release, if any,~~ was denied
8 or withdrawn, and the most recent order for conditional release, if any, was revoked.
9 The director of the facility at which the person is placed may file a petition under this
10 ~~paragraph subsection~~ on the person's behalf at any time.

11 **SECTION 818.** 971.17 (4) (b) of the statutes is renumbered 975.59 (2) and
12 amended to read:

13 975.59 (2) SERVICE; APPOINTMENT OF COUNSEL. If the person files a timely
14 petition under sub. (1) without counsel, the court shall serve a copy of the petition
15 on the district attorney and, subject to ~~sub. (7) (b)~~ s. 975.63 (2), refer the matter to
16 the state public defender for determination of indigency and appointment of counsel
17 under s. 977.05 (4) (j). ~~If the a person petitions through counsel, his or her files a~~
18 petition under sub. (1) with the assistance of an attorney, the person's attorney shall
19 serve a copy of the petition on the district attorney.

20 **SECTION 819.** 971.17 (4) (c) of the statutes is renumbered 975.59 (3) and
21 amended to read:

22 975.59 (3) EXAMINATION. Within 20 days after receipt of the petition under sub.
23 (1), the court shall appoint one or more examiners having the specialized knowledge
24 determined by the court to be appropriate, ~~who shall to~~ to examine the person and
25 furnish a written report of the examination to the court within 30 days after

1 appointment. The examiners shall have reasonable access to the person for purposes
2 of examination and to the person's past and present treatment records, as defined in
3 s. 51.30 (1) (b), and patient health care records, as provided under s. 146.82 (2) (c).
4 If ~~any such~~ an examiner believes that the person is appropriate for conditional
5 release, the examiner shall report on the type of treatment and services that the
6 person may need while in the community on conditional release.

7 **SECTION 820.** 971.17 (4) (d) of the statutes is renumbered 975.59 (4) and
8 amended to read:

9 975.59 (4) HEARING. The court, ~~without a jury~~, shall hear the petition within
10 30 days after the report of the court-appointed examiner is filed with the court,
11 unless the ~~petitioner~~ person waives this time limit. Expenses of proceedings under
12 this subsection shall be paid as provided under s. 51.20 (18). The court shall grant
13 the petition unless it finds by clear and convincing evidence that the person would
14 pose a significant risk of causing bodily harm to himself or herself or to others or of
15 causing serious property damage if conditionally released. In making this
16 determination, the court may consider, ~~without limitation because of enumeration,~~
17 ~~the nature and circumstances of the crime, the person's mental history and present~~
18 ~~mental condition, where the person will live, how the person will support himself or~~
19 ~~herself, what arrangements are available to ensure that the person has access to and~~
20 ~~will take necessary medication, and what arrangements are possible for treatment~~
21 ~~beyond medication~~ the factors under s. 975.57 (1).

22 **SECTION 821.** 971.17 (4) (e) of the statutes is renumbered 975.59 (5) (a), and
23 975.59 (5) (a) 1., as renumbered, is amended to read:

24 975.59 (5) (a) 1. If the court finds that the person is appropriate for conditional
25 release, the court shall notify the department of health services. ~~Subject and, subject~~

1 to ~~subd. subds.~~ 2. and 3., the ~~department of health services and the~~ county
2 department under s. 51.42 in the county of residence of the person shall prepare a
3 plan that identifies the treatment and services, if any, that the person will receive
4 in the community. The plan shall address the person's need, if any, for supervision,
5 medication, community support services, residential services, vocational services,
6 and alcohol or other drug abuse treatment. ~~The department of health services may~~
7 ~~contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public~~
8 ~~agency or with a private agency to provide the treatment and services identified in~~
9 ~~the plan.~~ The plan shall specify who will be responsible for providing the treatment
10 and services identified in the plan. ~~The plan shall be presented~~ department and the
11 county department shall present the plan to the court for its approval within ~~60~~ 14
12 days after the court finding that the person is appropriate for conditional release,
13 unless the department, county department, ~~department of health services~~ and
14 person to be released request additional time to develop the plan.

15 **SECTION 822.** 971.17 (4m) of the statutes is repealed.

16 **SECTION 823.** 971.17 (5) (title) of the statutes is renumbered 975.60 (title).

17 **SECTION 824.** 971.17 (5) of the statutes is renumbered 975.60 (1) and amended
18 to read:

19 975.60 (1) A person on conditional release, or the department of health services
20 on his or her behalf, may petition the committing court to terminate ~~the~~ an order of
21 commitment if at least 6 months have elapsed since the person was last placed on
22 conditional release and since the most recent petition under this section, if any, was
23 denied.

24 (2) If ~~the~~ a person files a timely petition under sub. (1) without counsel, the
25 court shall serve a copy of the petition on the district attorney and, subject to ~~sub. (7)~~

1 ~~(b)~~ s. 975.63 (2), refer the matter to the state public defender for determination of
2 indigency and appointment of counsel under s. 977.05 (4) (j). If the person petitions
3 ~~through counsel, his or her~~ files a petition under sub. (1) with the assistance of an
4 ~~attorney, the person's attorney shall serve~~ a copy of the petition on the district
5 attorney.

6 (3) The court shall rule on the petition ~~shall be determined~~ as promptly as
7 practicable ~~by the court without a jury.~~

8 (4) The court shall terminate the order of commitment unless it finds by clear
9 and convincing evidence that further supervision is necessary to prevent a
10 significant risk of bodily harm to the person or to others or of serious property
11 damage. In making this determination, the court may consider, without limitation
12 because of enumeration, the nature and circumstances of the crime, the person's
13 mental history and current mental condition, the person's behavior while on
14 conditional release, and plans for the person's living arrangements, support,
15 treatment, and other required services after termination of the commitment order.
16 ~~A petition under this subsection may not be filed unless at least 6 months have~~
17 ~~elapsed since the person was last placed on conditional release or since the most~~
18 ~~recent petition under this subsection was denied.~~

19 **SECTION 825.** 971.17 (6) of the statutes is renumbered 975.61, and 975.61 (1)
20 (intro.) and (2), as renumbered, are amended to read:

21 975.61 (1) (intro.) At least 60 days prior to the expiration of a commitment order
22 issued under sub. (1) s. 975.57, the department of health services shall notify all of
23 the following of the expiration of the order:

24 (2) Upon the expiration of a commitment order ~~under sub. (1)~~, the court shall
25 discharge the person, subject to the right of the department of health services or the

1 appropriate county department under s. 51.60 or 51.437 to proceed against the
2 person under ch. 51 or 55. ~~If none of these departments proceeds against the person~~
3 ~~under ch. 51 or 55, the court may order the proceeding.~~

4 **SECTION 826.** 971.17 (6m) (title) of the statutes is repealed.

5 **SECTION 827.** 971.17 (6m) (a) (intro.) of the statutes is renumbered 975.62 (1)
6 (intro.) and amended to read:

7 975.62 (1) (intro.) In this ~~subsection~~ section:

8 **SECTION 828.** 971.17 (6m) (a) 1. of the statutes is repealed.

9 **SECTION 829.** 971.17 (6m) (a) 2. of the statutes is renumbered 975.62 (1) (a).

10 **SECTION 830.** 971.17 (6m) (a) 3. of the statutes is renumbered 975.62 (1) (b).

11 **SECTION 831.** 971.17 (6m) (b) of the statutes is repealed.

12 **SECTION 832.** 971.17 (6m) (c) of the statutes is repealed.

13 **SECTION 833.** 971.17 (6m) (d) of the statutes is renumbered 975.62 (5) and
14 amended to read:

15 975.62 (5) The department of health services shall design and prepare cards
16 for persons specified in par. (b) 1. a victim's representative to send to the department.
17 The cards shall have space for ~~these persons~~ a victim's representative to provide ~~their~~
18 ~~names~~ his or her name and ~~addresses~~ address, the name of the ~~applicable defendant~~
19 person committed under this subchapter, and any other information the department
20 determines is necessary. The department shall provide the cards, without charge,
21 to district attorneys. District attorneys shall provide the cards, without charge, to
22 ~~persons specified in par. (b) 1.~~ These persons victims' representatives. A victim's
23 representative may send completed cards to the department. All departmental
24 ~~records or~~ Records and portions of records of the department that relate to mailing
25 addresses of ~~these persons~~ a victim's representative are not subject to inspection or

1 copying under s. 19.35 (1), except as needed to comply with a request under sub. (4m)
2 (~~d~~) or s. 301.46 (3) (d).

3 **SECTION 834.** 971.17 (7) (title) of the statutes is renumbered 975.63 (title).

4 **SECTION 835.** 971.17 (7) (a) of the statutes is renumbered 975.63 (1) and
5 amended to read:

6 975.63 (1) The committing court shall conduct all hearings under ~~this section~~
7 ss. 975.55 to 975.61. The committed person shall be given reasonable notice of the
8 time and place of each ~~such~~ hearing. The court may designate additional persons to
9 receive these notices.

10 **SECTION 836.** 971.17 (7) (b) of the statutes is renumbered 975.63 (2), and 975.63
11 (2) (intro.), as renumbered, is amended to read:

12 975.63 (2) (intro.) Without limitation by enumeration, at any hearing under
13 ~~this section~~ ss. 975.55 to 975.61, the person subject of the hearing has the right to:

14 **SECTION 837.** 971.17 (7) (c) of the statutes is renumbered 975.63 (4) and
15 amended to read:

16 975.63 (4) If ~~the~~ a person who is subject to proceedings under ss. 975.55 to
17 975.61 wishes to be examined by a physician, ~~as defined in s. 971.16 (1) (a), or a~~
18 ~~psychologist, as defined in s. 971.16 (1) (b),~~ or other expert of his or her choice, the
19 procedure under s. ~~971.16~~ 975.51 (4) shall apply. Upon motion of an indigent
20 person, the court shall appoint a qualified and available examiner for the person at
21 public expense. Examiners for the person or the district attorney shall have
22 reasonable access to the person for purposes of examination, and to the person's past
23 and present treatment records, as defined in s. 51.30 (1) (b), and patient health care
24 records, as provided under s. 146.82 (2) (c).

25 **SECTION 838.** 971.17 (7) (d) of the statutes is repealed.

1 SECTION 839. 971.17 (7m) of the statutes is renumbered 975.64.

2 SECTION 840. 971.17 (8) of the statutes is renumbered 975.525 and amended
3 to read:

4 **975.525 Applicability of ss. 975.57 to 975.64.** This section governs Sections
5 975.53, 975.54, 975.55, 975.56, 975.57, 975.58, 975.59, 975.60, 975.61, 975.62,
6 975.63, and 975.64 govern the commitment, release, and discharge of persons
7 adjudicated not guilty by reason of mental disease or mental defect for offenses
8 committed on or after January 1, 1991. The commitment, release, and discharge of
9 persons adjudicated not guilty by reason of mental disease or mental defect for
10 offenses committed prior to January 1, 1991, shall be are governed by s. 971.17, 1987
11 stats., as affected by 1989 Wisconsin Act 31.

****NOTE: Each of the sections mentioned should contain a cross-reference to this section. If you approve of how this section is drafted, we can do that in the next version. Please make sure this list is complete. Otherwise, we could recombine ss. 975.57 to 975.64 into a single section.

12 SECTION 841. 971.18 of the statutes is renumbered 975.21 and amended to
13 read:

14 **975.21 Inadmissibility of statements made for purposes of**
15 **examination.** A statement made by a person subjected who is subject to a
16 psychiatric examination or to treatment pursuant to under this chapter that is made
17 for the purposes purpose of such the examination or treatment shall is not be
18 admissible in evidence against the person in any criminal proceeding on any issue
19 other than that of the person's mental condition.

20 SECTION 842. 971.19 of the statutes is renumbered 970.14, and 970.14 (title),
21 (1), (2), (3), (4), (5), (6), (8), (9) (intro.), (10), (11) and (12), as renumbered, are amended
22 to read:

1 **970.14 Place of trial Venue.** (1) ~~Criminal actions~~ Trials shall be tried in the
2 county where the crime was committed, except as ~~otherwise~~ provided in this section
3 or in s. 971.09.

4 (2) Where ~~2 or more acts are requisite to the commission of any offense~~ crime
5 requires 2 or more acts, the trial may be in any county in which any of such acts
6 occurred. In a case involving a charge of conspiracy under s. 939.31, the trial may
7 be in any county in which a conspiratorial act took place.

8 (3) Where ~~an offense~~ a crime is committed on or within one-fourth of a mile of
9 the boundary of 2 or more counties, the ~~defendant may be tried~~ trial may be in any
10 of such counties.

11 (4) If a crime is committed in, on, by use of, or against any vehicle passing
12 through or within this state, and it cannot readily be determined in which county the
13 crime was committed, the ~~defendant may be tried~~ trial may be in any county through
14 ~~which such vehicle has passed or in the county where the defendant's travel~~
15 ~~commenced or terminated~~ in which the vehicle has traveled.

16 (5) If the act causing death is in one county and the death ensues in another,
17 the ~~defendant may be tried~~ trial may be in either county. If neither location can
18 readily be determined, the ~~defendant may be tried~~ trial may be in the county where
19 the body is found.

20 (6) If an offense is commenced outside the state and is consummated within
21 the state, the ~~defendant may be tried~~ trial may be in the county where the offense
22 was consummated.

23 (8) In an action for a violation of s. 948.31, the ~~defendant may be tried~~ trial may
24 be in the county where the crime was committed or the county of lawful residence of
25 the child.

1 (9) (intro.) In an action under s. 301.45 (6) (a) or (ag), the ~~defendant may be tried~~
2 trial may be in the defendant's county of residence at the time that the complaint is
3 filed. If the defendant does not have a county of residence in this state at the time
4 that the complaint is filed, or if the defendant's county of residence is unknown at the
5 time that the complaint is filed, ~~defendant may be tried~~ trial may be in any of the
6 following counties:

7 (10) In an action under s. 30.547 for intentionally falsifying an application for
8 a certificate of number, a registration or a certificate of title, the ~~defendant may be~~
9 ~~tried~~ trial may be in the defendant's county of residence at the time that the
10 complaint is filed, in the county where the defendant purchased the boat if purchased
11 from a dealer, or the county where the department of natural resources received the
12 application.

13 (11) In an action under s. 943.201, the ~~defendant may be tried~~ trial may be in
14 the county where the victim or intended victim resided at the time of the offense or
15 in any other county designated under this section. In an action under s. 943.203, the
16 ~~defendant may be tried~~ trial may be in the county where the victim or intended victim
17 was located at the time of the offense or in any other county designated under this
18 section.

19 (12) Except as provided in s. ~~971.223~~ 971.72, in an action for a violation of chs.
20 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or for a violation of any other law
21 arising from or in relation to the official functions of the subject of the investigation
22 or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to
23 12, subch. III of ch. 13, or subch. III of ch. 19 a ~~defendant who is~~ trial for a resident
24 of this state shall be ~~tried in circuit~~ the court for the county where the ~~defendant~~
25 person resides. For purposes of this subsection, a person other than a natural person

1 resides within a county if the person's principal place of operation is located within
2 that county.

3 **SECTION 843.** 971.20 (title), (1), (2), (4), (5), (6), (7), (8), (9), (10) and (11) of the
4 statutes are renumbered 967.16 (title), (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10),
5 and 967.16 (2), (3), (8) and (9), as renumbered, are amended to read:

6 **967.16 (2) ONE SUBSTITUTION.** In any criminal action, the defendant has a right
7 to only one substitution of a judge, except under sub. ~~(7)~~ (6). The right of substitution
8 shall be exercised as provided in this section.

9 **(3) SUBSTITUTION OF TRIAL JUDGE ORIGINALLY ASSIGNED.** A written request for the
10 substitution of a different judge for the judge originally assigned to the trial of the
11 action may be filed with the clerk before making any motions to the trial court and
12 before arraignment entry of a plea.

13 **(8) JUDGE'S AUTHORITY TO ACT.** Upon the filing of a request for substitution in
14 proper form and within the proper time, the judge whose substitution has been
15 requested has no authority to act further in the action except to conduct the initial
16 appearance, accept pleas, and set bail conditions of release.

17 **(9) FORM OF REQUEST.** A request for substitution of a judge may be made in the
18 following form:

19 STATE OF WISCONSIN

20 CIRCUIT COURT

21 County

22 State of Wisconsin

23 vs.

24(Defendant)

1 Pursuant to s. ~~971.20~~ 967.16 the defendant (or defendants) request (s) a
2 substitution for the Hon. as judge in the above entitled action.

3 Dated, (year)

4(Signature of defendant or defendant's attorney)

5 **SECTION 844.** 971.20 (3) of the statutes is repealed.

6 **SECTION 845.** 971.22 of the statutes is renumbered 971.70 and amended to
7 read:

8 **971.70 Change of place of trial.** (1) The defendant may move ~~for a~~ to change
9 of the place of trial on the ground that an impartial trial cannot be had in the county.
10 ~~The motion shall be made at arraignment, but it may be made thereafter for cause.~~

11 (2) The motion shall be in writing and supported by an affidavit ~~which shall~~
12 ~~state~~ stating evidentiary facts showing the nature of the prejudice alleged. The
13 district attorney may file counter affidavits.

14 (3) If the court determines that ~~there exists~~ prejudice in the county where the
15 action is pending ~~such prejudice that will prevent a fair trial cannot be had~~, it shall
16 ~~order that~~ conduct the trial be held in any county where ~~an impartial~~ a fair trial can
17 be had. ~~Only one change may be granted under this subsection. The judge who~~
18 ~~orders the change in the place of trial shall preside at the trial. Preliminary matters~~
19 ~~prior to trial may be conducted in either county at the discretion of the court. The~~
20 ~~judge or, if the requirements under s. 971.71 (1) are satisfied, order the selection of~~
21 ~~a jury from another county under s. 971.71 (2). If the court conducts the trial in~~
22 ~~another county, it shall determine where the defendant, if he or she is in custody,~~
23 ~~shall be held and where the record shall be kept. If the criteria under s. 971.225 (1)~~
24 ~~(a) to (c) exist, the court may proceed under s. 971.225 (2) The court, in its discretion,~~
25 may conduct pretrial matters in either county.

1 **SECTION 846.** 971.223 of the statutes is renumbered 971.72, and 971.72 (3) and
2 (4), as renumbered, are amended to read:

3 971.72 (3) This section does not affect which prosecutor has responsibility
4 under s. 978.05 (1) to prosecute criminal actions ~~arising from violations~~ described
5 under sub. (1).

6 (4) This section does not affect the application of s. ~~971.22~~ 971.70. In actions
7 described under sub. (1), the court may enter an order under s. ~~971.225~~ 971.71 only
8 if the order is agreed to by the defendant.

9 **SECTION 847.** 971.225 (title) of the statutes is renumbered 971.71 (title).

10 **SECTION 848.** 971.225 (1) (intro.), (a) and (c) of the statutes are renumbered
11 971.71 (1) (intro.), (a) and (b), and 971.71 (1) (intro.) and (a), as renumbered, are
12 amended to read:

13 971.71 (1) (intro.) ~~In lieu of~~ If there are grounds for changing the place of trial
14 under s. ~~971.22 (3) or 971.223~~ 971.70 (3) or 971.72 and all of the following conditions
15 are satisfied, the court may require the selection of a jury under sub. (2) if:

16 (a) The court has decided to sequester the jurors after the commencement of
17 the trial, as provided in s. ~~972.12;~~ 972.05.

18 **SECTION 849.** 971.225 (1) (b) of the statutes is repealed.

19 **SECTION 850.** 971.225 (2) of the statutes is renumbered 971.71 (2) and amended
20 to read:

21 971.71 (2) If the court decides to proceed under this section it shall follow the
22 procedure under s. ~~971.22~~ 971.70 until the jury is chosen in the 2nd county. At that
23 time, the proceedings shall return to the original county using the jurors selected in
24 the 2nd county. The original county shall reimburse the 2nd county for all applicable
25 costs under s. 814.22.

1 **SECTION 851.** 971.23 (title) of the statutes is repealed.

2 **SECTION 852.** 971.23 (1) (intro.) of the statutes is renumbered 971.43 (2) (intro.)
3 and amended to read:

4 971.43 (2) ~~WHAT A DISTRICT ATTORNEY MUST DISCLOSE TO A DEFENDANT~~ MATERIAL
5 TO BE DISCLOSED. (intro.) ~~Upon demand, the~~ The district attorney shall, ~~within a~~
6 ~~reasonable time before trial,~~ disclose to the defendant or his or her attorney defense
7 the following material and information, not previously disclosed before or at the
8 initial appearance, and permit ~~the defendant or his or her attorney to inspect and~~
9 ~~copy or photograph all of the following materials and information, if it is within the~~
10 ~~possession, custody or control of the state~~ inspection, copying, testing, and
11 photographing of disclosed documents or tangible objects:

12 **SECTION 853.** 971.23 (1) (a) of the statutes is renumbered 971.43 (2) (a) and
13 amended to read:

14 971.43 (2) (a) Any written or recorded statement concerning the alleged crime
15 made by the defendant, including the testimony of the defendant ~~in a secret~~
16 ~~proceeding under s. 968.26 at an inquest~~ or before a grand jury, and the names of
17 witnesses to the defendant's written statements.

18 **SECTION 854.** 971.23 (1) (b) of the statutes is renumbered 971.43 (2) (c) and
19 amended to read:

20 971.43 (2) (c) A written summary of all oral statements of the defendant ~~which~~
21 that the district attorney plans to use ~~in the course of the~~ at trial and the names of
22 witnesses to the defendant's oral statements.

23 **SECTION 855.** 971.23 (1) (bm) of the statutes is renumbered 971.43 (2) (d) and
24 amended to read:

1 **SECTION 800.** 971.17 (1m) (b) 4. of the statutes is renumbered 975.54 (3) (d) and
2 amended to read:

3 975.54 (3) (d) If the court orders a defendant person to comply with the
4 reporting requirements under s. 301.45, the court may order the defendant person
5 to continue to comply with the reporting requirements until his or her death.

6 **SECTION 801.** 971.17 (1m) (b) 5. of the statutes is renumbered 975.54 (3) (e) and
7 amended to read:

8 975.54 (3) (e) If the court orders a defendant person to comply with the
9 reporting requirements under s. 301.45, the clerk of the court in which the order is
10 entered shall promptly forward a copy of the order to the department of corrections.
11 If the finding of not guilty by reason of mental disease or defect on which the order
12 is based is reversed, set aside, or vacated, the clerk of the court shall promptly
13 forward to the department of corrections a certificate stating that the finding has
14 been reversed, set aside, or vacated.

15 **SECTION 802.** 971.17 (2) (title) of the statutes is repealed.

16 **SECTION 803.** 971.17 (2) (a) of the statutes is renumbered 975.55 and amended
17 to read:

18 **975.55 Disposition of person found not guilty by reason of mental**
19 **disease or defect.** ~~The court shall enter an initial commitment order under this~~
20 ~~section pursuant to a hearing held as~~ As soon as practicable after the entering a
21 judgment of finding a person not guilty by reason of mental disease or mental defect
22 is entered, the court shall hold a dispositional hearing and commit the person to the
23 department as provided in s. 975.57. If the court lacks sufficient information to ~~make~~
24 ~~the determination required by sub. (3)~~ enter a commitment order under s. 975.57
25 immediately after trial, it may adjourn the dispositional hearing, enter an interim

1 order committing the person to the department, and order the department of health
2 services to conduct a predisposition investigation using the procedure in under s.
3 972.15 973.004, or order a supplementary mental examination or both, to assist the
4 court in framing the commitment order of the person. If the court enters an interim
5 commitment order, the person is subject to any conditions set by the court and to the
6 rules of the department.

7 **SECTION 804.** 971.17 (2) (b) of the statutes is renumbered 975.56 (1) and
8 amended to read:

9 975.56 (1) If ~~a~~ the court orders a supplementary mental examination is
10 ordered under par. (a) s. 975.55, the court may appoint one or more examiners having
11 the specialized knowledge determined by the court to be appropriate to examine and
12 report upon the condition of the person. In lieu thereof, conduct an outpatient
13 examination of the person or the court may commit the person to an appropriate
14 mental health facility for the period specified in par. (c), which shall an inpatient
15 examination. Days spent in a mental health facility for an inpatient examination
16 under this subsection count as days spent in custody under s. 973.155.

17 **SECTION 805.** 971.17 (2) (c) of the statutes is renumbered 975.56 (3) (a) and
18 amended to read:

19 975.56 (3) (a) An examiner ordered to conduct an inpatient examination under
20 this section shall complete an inpatient the examination under par. (b) and file the
21 a report of the examination within 15 days after the examination is ordered unless,
22 for good cause, If the examiner cannot complete the examination within 15 days and
23 requests an extension. In that case, the court may for good cause allow one 15-day
24 extension of the examination period.

1 **(b)** An examiner ordered to conduct an outpatient examination under this
2 section shall complete ~~an outpatient~~ the examination and file ~~the a~~ report of the
3 examination within ~~15~~ 30 days after the examination is ordered.

4 **SECTION 806.** 971.17 (2) (d) of the statutes is renumbered 975.56 (4) and
5 amended to read:

6 975.56 (4) If the court orders an inpatient examination under ~~par. (b)~~ sub. (1),
7 it shall arrange for the transportation of the person to the examining facility within
8 a reasonable time after the examination is ordered and for the person to be returned
9 to the jail or court within a reasonable time after the examination has been
10 completed.

11 **SECTION 807.** 971.17 (2) (e) of the statutes is renumbered 975.56 (2) and
12 amended to read:

13 975.56 (2) The examiner ~~appointed under par. (b)~~ ordered to conduct an
14 examination under this section shall personally observe and examine the person.
15 The examiner ~~or facility~~ shall have access to the person's past or present treatment
16 records, as defined in s. 51.30 (1) (b), and patient health care records, as provided
17 under s. 146.82 (2) (c). If the examiner believes that the person is appropriate for
18 conditional release, the examiner shall report on the type of treatment and services
19 that the person may need while in the community on conditional release.

20 **SECTION 808.** 971.17 (2) (f) of the statutes is renumbered 975.56 (5) and
21 amended to read:

22 975.56 (5) ~~The costs of an examination ordered under par. (a) shall be paid by~~
23 ~~the county upon~~ Upon the order of the court as ~~part of the costs of the action, the~~
24 county shall pay the costs of an examination ordered under this section.

1 **SECTION 809.** 971.17 (2) (g) of the statutes is renumbered 975.56 (6) and
2 amended to read:

3 975.56 (6) Within 10 days after the examiner's report is filed under ~~par. (e)~~ sub.
4 (3), the court shall hold a hearing to determine ~~whether the terms of the commitment~~
5 ~~shall take the form of institutional care or conditional release order under s. 975.57.~~

6 **SECTION 810.** 971.17 (3) (title) of the statutes is repealed.

7 **SECTION 811.** 971.17 (3) (a) of the statutes is renumbered 975.57 (1) and
8 amended to read:

9 975.57 (1) COMMITMENT ORDER. An order for commitment under this section
10 shall specify either institutional care or conditional release. The court shall order
11 institutional care if it finds by clear and convincing evidence that ~~conditional release~~
12 ~~of the person, if conditionally released,~~ would pose a significant risk of causing bodily
13 harm to himself or herself or to others or of causing serious property damage. If the
14 court does not make this finding, it shall order conditional release. In determining
15 whether commitment shall be for institutional care or conditional release, the court
16 may consider, without limitation because of enumeration, the nature and
17 circumstances of the crime, the person's mental history and present mental
18 condition, where the person will live, how the person will support himself or herself,
19 what arrangements are available to ensure that the person has access to and will
20 take necessary medication, and what arrangements are possible for treatment
21 beyond medication.

22 **SECTION 812.** 971.17 (3) (b) of the statutes is renumbered 975.57 (5) (a) and
23 amended to read:

24 975.57 (5) (a) If the state proves by clear and convincing evidence that the
25 person is not competent to refuse medication or treatment ~~for the person's mental~~

1 ~~condition, under the standard specified in s. 971.16 (3), the court shall issue, as part~~
2 ~~of the commitment order, an order that the person is not competent to refuse~~
3 ~~medication or treatment for the person's mental condition and that whoever~~
4 ~~administers the medication or treatment to the person shall observe appropriate~~
5 ~~medical standards.~~

6 **SECTION 813.** 971.17 (3) (c) of the statutes is renumbered 975.57 (5) (b) and
7 amended to read:

8 975.57 (5) (b) ~~If the court order specifies institutional care, the department of~~
9 ~~health services shall place the person in an institution under s. 51.37 (3) that the~~
10 ~~department considers appropriate in light of the rehabilitative services required by~~
11 ~~the person and the protection of public safety. If the a person placed in an institution~~
12 ~~under this section is not subject to a court order determining finding the person to~~
13 ~~be not competent to refuse medication or treatment for the person's mental condition~~
14 ~~and if the institution in which the person is placed department determines that the~~
15 ~~person should be subject to such a court an order, the institution department may~~
16 ~~file a motion with the court, with notice to the person and his or her counsel and the~~
17 ~~district attorney, a motion as provided in s. 975.35 for a hearing, under the standard~~
18 ~~specified in s. 971.16 (3), on to determine whether the person is not competent to~~
19 ~~refuse medication or treatment. A report on which the motion is based shall~~
20 ~~accompany the motion and notice of motion and shall include a statement signed by~~
21 ~~a licensed physician that asserts that the person needs medication or treatment and~~
22 ~~that the person is not competent to refuse medication or treatment, based on an~~
23 ~~examination of the person by a licensed physician. Within 10 days after a motion is~~
24 ~~filed under this paragraph, the court shall determine the person's competency to~~
25 ~~refuse medication or treatment for the person's mental condition. At the request of~~

1 971.43 (2) (d) Evidence obtained in the manner described under s. ~~968.31~~
2 ~~968.345~~ (2) (b), if the district attorney intends to use the evidence at trial.

3 **SECTION 856.** 971.23 (1) (c) of the statutes is renumbered 971.43 (2) (g).

4 **SECTION 857.** 971.23 (1) (d) of the statutes is renumbered 971.45 and amended
5 to read:

6 **971.45 Witness lists.** ~~A- Upon demand by the other party, a party shall~~
7 ~~provide a list of all witnesses and their addresses whom the district attorney he or~~
8 ~~she intends to call at the trial. The list shall include each witness's name and address~~
9 ~~and shall be provided not less than 10 days before trial or at another time set by the~~
10 ~~court. This paragraph section does not apply to rebuttal witnesses or those witnesses~~
11 called for impeachment only.

12 **SECTION 858.** 971.23 (1) (e) of the statutes is renumbered 971.46 (2) and
13 amended to read:

14 971.46 (2) ~~Any relevant written or recorded statements of a witness named on~~
15 ~~a list under par. (d), including any audiovisual recording of an oral statement of a~~
16 ~~child under s. 908.08, Furnish~~ any reports or statements of experts made in
17 connection with the case or, if an expert does not prepare a report or statement, a
18 written summary of the expert's findings or the subject matter of his or her testimony,
19 and the results of any physical or mental examination, scientific test, experiment,
20 or comparison that the ~~district attorney party~~ intends to offer in evidence at trial.

21 **SECTION 859.** 971.23 (1) (f) of the statutes is renumbered 971.43 (2) (i) and
22 amended to read:

23 971.43 (2) (i) The criminal record of a ~~prosecution witness which is, and if~~
24 known to the district attorney, any pending charges against, any person whom the
25 district attorney intends to call as a trial witness.

1 **SECTION 860.** 971.23 (1) (g) of the statutes is renumbered 971.43 (2) (j) and
2 amended to read:

3 971.43 (2) (j) Any physical evidence that the district attorney intends to offer
4 ~~in evidence~~ at the trial.

5 **SECTION 861.** 971.23 (1) (h) of the statutes is renumbered 971.43 (2) (k).

6 **SECTION 862.** 971.23 (2m) (intro.) of the statutes is renumbered 971.44 (2)
7 (intro.) and amended to read:

8 971.44 (2) ~~WHAT A DEFENDANT MUST DISCLOSE TO THE DISTRICT ATTORNEY~~ MATERIAL
9 TO BE DISCLOSED. (intro.) ~~Upon demand, the defendant or his or her attorney~~ The
10 defense shall, ~~within a reasonable time before trial,~~ disclose to the district attorney
11 ~~and permit the district attorney to inspect and copy or photograph all of the following~~
12 ~~materials~~ material and information, ~~if it is within the possession, custody or control~~
13 ~~of the defendant~~ and permit inspection, copying, testing, and photographing of
14 disclosed documents or tangible objects:

15 **SECTION 863.** 971.23 (2m) (a) of the statutes is repealed.

16 **SECTION 864.** 971.23 (2m) (am) of the statutes is repealed.

17 **SECTION 865.** 971.23 (2m) (b) of the statutes is renumbered 971.44 (2) (b) and
18 amended to read:

19 971.44 (2) (b) ~~The~~ If known to the defense, the criminal record of ~~a~~ any person
20 whom the defense intends to call as a trial witness, other than the defendant, ~~which~~
21 ~~is known to the defense attorney.~~

22 **SECTION 866.** 971.23 (2m) (c) of the statutes is renumbered 971.44 (2) (c) and
23 amended to read:

24 971.44 (2) (c) Any physical evidence that the ~~defendant~~ defense intends to offer
25 ~~in evidence~~ at the trial.

1 SECTION 867. 971.23 (3) of the statutes is renumbered 971.54 and amended to
2 read:

3 **971.54 ~~Comment or instruction on failure to call witness~~ Failure to use**
4 **disclosed material at trial.** ~~No comment or instruction~~ The fact that a party has
5 indicated during the discovery process an intention to offer specified evidence or to
6 call a specified witness is not admissible in evidence at a hearing or trial. If a party
7 fails to offer such evidence or call such a witness, neither the court nor any other
8 party or witness may make any statement regarding the ~~that~~ failure to call a witness
9 at the trial shall be made or given if the sole basis for such comment or instruction
10 the statement is the fact that the evidence or name of the witness appears upon a list
11 furnished pursuant to this section was disclosed under this subchapter.

12 SECTION 868. 971.23 (5) of the statutes is renumbered 971.48 (1) and amended
13 to read:

14 971.48 (1) ~~SCIENTIFIC TESTING. On~~ Upon motion of a ~~by either~~ party subject to
15 ~~s. 971.31 (5),~~ the court may order the production of any item of physical evidence
16 ~~which~~ that is intended to be introduced at the trial for scientific analysis under such
17 terms and conditions as the court prescribes.

18 SECTION 869. 971.23 (5c) (title) of the statutes is repealed.

19 SECTION 870. 971.23 (5c) of the statutes is renumbered 971.58 (1).

20 SECTION 871. 971.23 (6) (title) of the statutes is renumbered 971.52 (title) and
21 amended to read:

22 **971.52 (title) ~~Protective order orders, other special procedures.~~**

23 SECTION 872. 971.23 (6) of the statutes is renumbered 971.52 (1) and amended
24 to read:

1 971.52 (1) Upon motion of a party, the court may at any time order that
2 discovery, ~~inspection or the listing of witnesses~~ required under this section
3 subchapter be denied, restricted, or deferred, or make other appropriate orders.

4 **(2)** If the district attorney or defense counsel certifies that ~~to list~~ listing a
5 witness under s. 971.45 may subject the witness or others to physical or economic
6 harm or coercion, the court may order that the deposition of the witness be taken
7 pursuant to s. ~~967.04 (2) to (6)~~ 967.21. The name of the witness need not be divulged
8 prior to the taking of such deposition. If the witness becomes unavailable or changes
9 his or her testimony, the deposition shall be admissible at trial as substantive
10 evidence.

11 **SECTION 873.** 971.23 (6c) (title) of the statutes is repealed.

12 **SECTION 874.** 971.23 (6c) of the statutes is renumbered 971.58 (2) and amended
13 to read:

14 971.58 (2) Except as provided in s. ~~967.04~~ 967.21, the defendant or his or her
15 attorney may not compel a victim of a crime to submit to a pretrial interview or
16 deposition.

17 **SECTION 875.** 971.23 (6m) of the statutes is renumbered 971.53 and amended
18 to read:

19 **971.53 In camera proceedings.** ~~Either~~ Upon motion of a party, the court may
20 ~~move for~~ conduct an in camera inspection ~~by the court~~ of any document required to
21 be disclosed under sub. (1) or (2m) ~~for the purpose of masking or deleting any~~
22 ~~material which is not relevant to the case being tried. The court shall mask or delete~~
23 ~~any irrelevant material~~ s. 971.035, 971.43, or 971.44. Any in camera proceeding shall
24 be reported and the court shall enter any order necessary to preserve the

1 confidentiality of the record. The original or a copy of any material that is not
2 disclosed shall be sealed and preserved as part of the record.

3 **SECTION 876.** 971.23 (7) of the statutes is renumbered 971.50 and amended to
4 read:

5 **971.50 Continuing duty to disclose.** If, ~~subsequent to compliance after~~
6 ~~complying~~ with a requirement of this ~~section~~ chapter, and ~~prior to before~~ or during
7 trial, a party discovers additional material or the names of additional witnesses
8 ~~requested which~~ that are subject to discovery, inspection, or production under this
9 ~~section~~ subchapter, the party shall promptly notify the other party of the existence
10 of the additional material or names.

11 **SECTION 877.** 971.23 (7m) (a) of the statutes is renumbered 971.55 and
12 amended to read:

13 **971.55 Remedies for noncompliance.** The court shall exclude any witness
14 not listed, any expert as to whom the requirements of s. 971.46 were not met, or
15 evidence not presented for inspection, testing, or copying required by this ~~section~~
16 subchapter, unless good cause is shown for failure to comply. ~~The court may in In~~
17 appropriate cases, the court may grant the opposing party a recess or a continuance.

18 **SECTION 878.** 971.23 (7m) (b) of the statutes is repealed.

19 **SECTION 879.** 971.23 (8) (title) of the statutes is renumbered 971.44 (4) (title).

20 **SECTION 880.** 971.23 (8) (a) of the statutes is renumbered 971.44 (4) and
21 amended to read:

22 971.44 (4) If the ~~defendant~~ defense intends to ~~rely upon an alibi as a defense~~,
23 ~~the defendant shall give notice to call witnesses other than the defendant to support~~
24 a defense of alibi, the defense shall notify the district attorney ~~at the arraignment~~
25 ~~or of that intent~~ at least 30 days before trial, stating particularly the place where the

1 defendant claims to have been when the crime is alleged to have been committed
2 ~~together with~~ and the names and addresses of witnesses to the alibi, ~~if known~~. If at
3 the close of the state's case the defendant withdraws the alibi or if at the close of the
4 defendant's case the defendant does not call some or any of the alibi witnesses, the
5 state shall not comment on the defendant's withdrawal or on the failure to call some
6 or any of the alibi witnesses. The state shall not call any alibi witnesses not called
7 by the defendant for the purpose of impeaching the defendant's credibility with
8 regard to the alibi notice. Nothing in this section may prohibit the state from calling
9 said alibi witnesses for any other purpose whom the defense intends to call at trial.

10 SECTION 881. 971.23 (8) (b) of the statutes is repealed.

11 SECTION 882. 971.23 (8) (c) of the statutes is repealed.

12 SECTION 883. 971.23 (8) (d) of the statutes is renumbered 971.43 (5) and
13 amended to read:

14 971.43 (5) ALIBI REBUTTAL. ~~Within 20 days after receipt of the~~ If the defendant
15 has provided notice of an alibi, ~~or such other time as the court orders~~ defense under
16 s. 971.44 (4), the district attorney shall furnish the defendant notice in writing of,
17 within 20 days after receipt of such notice unless otherwise provided in the
18 scheduling order, disclose the names and addresses, if known, of any witnesses whom
19 the state proposes to offer in rebuttal to discredit the defendant's alibi. In default of
20 such notice, ~~no rebuttal evidence on the alibi issue shall be received unless the court,~~
21 ~~for cause, orders otherwise~~ district attorney intends to call in rebuttal to discredit the
22 defendant's alibi.

23 SECTION 884. 971.23 (8) (e) of the statutes is repealed.

24 SECTION 885. 971.23 (9) of the statutes is renumbered 971.47 and amended to
25 read:

1 **971.47 Deoxyribonucleic acid evidence.** (1) In this ~~subsection~~ section,
2 “deoxyribonucleic acid profile” has the meaning given in s. 939.74 (2d) (a).

3 (2) Notwithstanding ~~sub. (1) (e) or (2m) (am), if either s. 971.46, a party who~~
4 intends to ~~submit~~ offer deoxyribonucleic acid profile evidence at a trial to prove or
5 disprove the identity of a person, ~~the party seeking to introduce the evidence shall~~
6 notify the other party ~~of the intent to introduce the evidence in writing~~ by mail at
7 least 45 days before the date set for trial; ~~and shall provide the other party of his or~~
8 her intent to offer the evidence and, within 15 days of after receiving a request, the
9 from the other party, shall provide him or her the information and material identified
10 under sub. (1) (e) or (2m) (am), whichever is appropriate, described in s. 971.46 that
11 relates to the evidence.

12 (3) The court shall exclude deoxyribonucleic acid profile evidence at trial, if the
13 notice and production deadlines under ~~par. (b)~~ sub. (2) are not met, except the court
14 may waive the 45 day notice requirement or may extend the 15 day production
15 requirement upon stipulation of the parties, or for good cause, if the court finds that
16 no party will be prejudiced by the waiver or extension. ~~The court may in~~ In
17 appropriate cases the court may grant the opposing party a recess or continuance.

18 **SECTION 886.** 971.23 (10) (title) of the statutes is repealed.

19 **SECTION 887.** 971.23 (10) of the statutes is renumbered 971.51 (2).

20 **SECTION 888.** 971.23 (11) of the statutes is renumbered 971.515, and 971.515
21 (1) (intro.) and (a), (3) (a) and (b) and (4), as renumbered, are amended to read:

22 971.515 (1) (intro.) In this ~~subsection~~ section:

23 (a) “Defense” means the defendant, his or her attorney, and any individual
24 retained by the defendant or his or her attorney for the purpose of providing

1 testimony if the testimony is expert testimony that relates to an item or material
2 included under ~~par. (b)~~ sub. (2).

3 (3) (a) Notwithstanding ~~sub. (1) (e) and (g)~~ s. 971.43 (2) (j), a court shall deny
4 any request by the defense to provide, and a district attorney or law enforcement
5 agency may not provide to the defense, any item or material required in ~~par. (b)~~ sub.
6 (2) to remain in the possession, custody, and control of a law enforcement agency or
7 court, except that a court may order that a copy of an item or material included under
8 ~~par. (b)~~ sub. (2) be provided to the defense if that court finds that a copy of the item
9 or material has not been made reasonably available to the defense. The defense shall
10 have the burden to establish that the item or material has not been made reasonably
11 available.

12 (b) If a court orders under ~~subd. 1. par. (a)~~ a copy of an item or material included
13 under ~~par. (b)~~ sub. (2) to be provided to the defense, the court shall enter a protective
14 order under ~~sub. (6)~~ s. 971.52 (1) that includes an order that the copy provided to the
15 defense may not be copied, printed, or disseminated by the defense and shall be
16 returned to the court or law enforcement agency, whichever is appropriate, at the
17 completion of the trial.

18 (4) Any item or material that is required under ~~par. (b)~~ sub. (2) to remain in
19 possession, custody, and control of a law enforcement agency or court is not subject
20 to the right of inspection or copying under s. 19.35 (1).

****NOTE: Please review the placement and content of this statute, including the
cross-references. It was created as s. 971.23 (11) in 2011 Wisconsin Act 284.

21 **SECTION 889.** 971.26 of the statutes is renumbered 970.11.

22 **SECTION 890.** 971.27 of the statutes is renumbered 970.12 and amended to
23 read:

1 **970.12 Lost information, or destroyed complaint or indictment.** In the
2 ~~case of the loss or destruction of an information or complaint~~ If a complaint is lost or
3 destroyed, the district attorney may file a copy, and the prosecution shall proceed
4 ~~without delay from that cause. In the case of the loss or destruction of an indictment,~~
5 ~~an information may be filed~~ which shall have the same effect as the original.

6 **SECTION 891.** 971.29 (title) of the statutes is renumbered 970.09 (title) and
7 amended to read:

8 **970.09 (title) Amending the charge complaint.**

9 **SECTION 892.** 971.29 (1) of the statutes is renumbered 970.09 (1) and amended
10 to read:

11 970.09 (1) ~~A complaint or information may be amended at any time prior to~~
12 ~~arraignment~~ At any time before the defendant enters a plea, the district attorney
13 may amend the complaint without leave of the court.

14 **SECTION 893.** 971.29 (2) of the statutes is renumbered 970.09 (3) and amended
15 to read:

16 970.09 (3) ~~At the trial, the~~ The court may allow amendment of the district
17 attorney to amend the complaint, indictment or information at trial to conform to the
18 proof where such amendment is not prejudicial to the defendant.

19 **(4)** After verdict the ~~pleading~~ complaint shall be deemed amended as to
20 technical variances to conform to the proof if no objection to the relevance of the
21 evidence was timely raised upon the trial.

22 **SECTION 894.** 971.29 (3) of the statutes is repealed.

23 **SECTION 895.** 971.30 (title) and (1) of the statutes are repealed.

24 **SECTION 896.** 971.30 (2) (intro.), (a), (b) and (c) of the statutes are consolidated,
25 renumbered 971.65 (1) and amended to read:

1 971.65 (1) GENERALLY. Any motion that is capable of determination before trial
2 may be made before trial. Unless otherwise provided or ordered by the court, all
3 ~~motions the motion shall meet the following criteria: (a) Be be in writing. (b) Contain~~
4 and contain a caption setting forth the name of the court, the venue, the title of the
5 action, the file number, and a denomination of the party seeking the order or relief
6 ~~and a brief description of the type of order or relief sought. (c) State. The motion~~
7 shall state with particularity the grounds for the motion and the order or relief
8 sought.

9 **SECTION 897.** 971.31 (title) of the statutes is repealed.

10 **SECTION 898.** 971.31 (1) of the statutes is repealed.

11 **SECTION 899.** 971.31 (2) of the statutes is renumbered 971.65 (3) and amended
12 to read:

13 971.65 (3) PARTICULAR ISSUES TO BE RAISED. ~~Except as provided in sub. (5),~~
14 ~~defenses~~ Defenses and objections based on defects in the institution of the
15 proceedings, insufficiency of the complaint, ~~information~~ or indictment, invalidity in
16 whole or in part of the statute on which the prosecution is ~~founded~~ based, or the use
17 of illegal means to secure evidence shall be raised before trial by a motion or be
18 deemed waived. The court may, however, entertain such a motion at the trial, in
19 which case the defendant waives any jeopardy that may have attached. ~~The motion~~
20 ~~to suppress evidence shall be so entertained with waiver of jeopardy when it appears~~
21 ~~that the defendant is surprised by the state's possession of such evidence.~~

22 **SECTION 900.** 971.31 (3) of the statutes is renumbered 972.18 (2) and amended
23 to read:

24 972.18 (2) The admissibility of any statement of the defendant shall be
25 determined at the trial by the court in an evidentiary hearing out of the presence of

1 the jury, unless the defendant, by motion, challenges the court ruled on admissibility
2 of such the statement before trial.

3 SECTION 901. 971.31 (4) of the statutes is renumbered 971.65 (4) and amended
4 to read:

5 971.65 (4) DECIDING MOTIONS BEFORE AND AT TRIAL. ~~Except as provided in sub.~~
6 ~~(3), a motion shall be determined before trial of the general issue~~ Before trial, the
7 court shall determine each motion made under this section unless the court orders
8 that it be deferred for determination at the trial. All issues of fact arising out of such
9 the motion shall be tried determined by the court without a jury.

10 SECTION 902. 971.31 (5) of the statutes is repealed.

11 SECTION 903. 971.31 (6) of the statutes is renumbered 971.65 (5) and amended
12 to read:

13 971.65 (5) CUSTODY AFTER DISMISSAL. If the court grants a motion to dismiss
14 based upon a defect in the indictment, information commencement of the prosecution
15 or in the complaint, or in the institution of the proceedings, it may, upon a showing
16 that probable cause exists to believe that the defendant has committed a crime, order
17 that the defendant be held in custody or that the defendant's bail be continued for
18 not more than 72 ~~48~~ hours pending issuance of a new summons or warrant or that
19 the conditions of release be continued for a specified time pending the filing of a new
20 indictment, information or complaint.

21 SECTION 904. 971.31 (7) of the statutes is repealed.

22 SECTION 905. 971.31 (8) of the statutes is repealed.

23 SECTION 906. 971.31 (9) of the statutes is renumbered 967.15 and amended to
24 read:

1 **967.15 Service upon defendant.** A pleading, notice, motion, or other
2 document required to be served on a defendant may be served upon the defendant's
3 attorney of record.

4 **SECTION 907.** 971.31 (10) of the statutes is renumbered 971.085 (1) (a) and
5 amended to read:

6 971.085 (1) (a) An order denying a motion to suppress evidence or a motion
7 challenging the admissibility of a statement of a defendant ~~may be reviewed upon~~
8 ~~appeal from a final judgment or order notwithstanding the fact that the judgment~~
9 ~~or order was entered upon a plea of guilty or no contest to the information or criminal~~
10 ~~complaint.~~

****NOTE: Please review the treatment of s. 971.31 (10) in light of 2009 Wisconsin Act 27. In proposed s. 971.085 (1) (intro.), do you want to add reference to appeal upon a final order in addition to appeal from a judgment of conviction?

11 **SECTION 908.** 971.31 (11) of the statutes is renumbered 971.65 (6) and amended
12 to read:

13 971.65 (6) PRIOR SEXUAL CONDUCT EVIDENCE. In actions under s. 940.225, 948.02,
14 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2), if the
15 court finds that the crime was sexually motivated, as defined in s. 980.01 (5),
16 evidence ~~which~~ that is admissible under s. ~~972.11 (2)~~ 904.045 must be determined
17 by the court upon pretrial motion to be material to a fact at issue in the case and of
18 sufficient probative value to outweigh its inflammatory and prejudicial nature
19 before it may be introduced at trial.

20 **SECTION 909.** 971.31 (12) of the statutes is renumbered 971.65 (7) and amended
21 to read: